

PLANNING AND ZONING BOARD
SEPTEMBER 14, 2005

1. ROLL CALL

The meeting was called to order at 7:04 p.m. Board members present were Chair Mike Bender, Vice-Chair Scott McLaughlin (arrived 7:08 p.m.), Marlon Luis, John Stevens and Mimi Turin. Also present were Town Attorney Monroe Kiar, Planner Chris Gratz and Board Secretary Janet Gale recording the meeting.

2. APPROVAL OF MINUTES: August 24, 2005

Mr. Stevens asked that a correction be made as he recalled being present for a discussion during the meeting of August 24th. Ms. Gale indicated that she would make the correction.

Mr. Stevens made a motion, seconded by Ms. Turin, to approve the minutes with the change. In a voice vote, with Vice-Chair McLaughlin being absent, all voted in favor. **(Motion carried 4-0)**

3. PUBLIC HEARING

Special Permit

3.1 SE 6-1-05, O'Brien /Jazayri, 2240 SW 71 Terrace (M-1, Old Code)

Sean O'Brien, the petitioner, was present. Mr. Gratz summarized the planning report.

Chair Bender asked if anyone wished to speak for or against this item.

Norm Blanco, 2080 SW 72 Avenue, advised that there were deed restrictions on the property and that no activity was to take place after 6 p.m. at that site. He indicated that the applicant was offered the opportunity to put the track in the four-acre park directly south of the building. Mr. Blanco stated that since the place was opened, there had been a lot of activity after 6 p.m., such as crowds in the parking lot with noisy kids. He strongly objected to the request especially because of the deed restrictions. Mr. Blanco also advised that the notices which had been sent out regarding the public participation process had the wrong dates and addresses on them so no one from his complex could attend.

Chair Bender asked staff if there had been deed restrictions on the property. Mr. Gratz responded that he had not been aware of any.

Vice-Chair McLaughlin asked if someone would research the deed restrictions. Mr. Gratz responded that a title search would have to be made. Mr. Kiar indicated that it would be recorded in the Public Records and that if it was the Town's prerogative to require a title search, that would be advisable.

Mr. Stevens asked if the deed restrictions needed to be taken into account for the purpose of ruling on a special permit. Mr. Kiar indicated that it depended on whose favor the restrictions were in as it was often the case that the Town took back deed restrictions from developers.

Mr. Kiar inquired of Mr. Blanco if he recalled why the deed restrictions had been imposed. Mr. Blanco advised that the Hayberg Complex had been zoned M-1 and was surrounded by three residential complexes. The restrictions were to curtail activities at 6 p.m. so that the light industry would cease at the time when residents were returning home.

Mr. Stevens repeated that his issue would be that the time restriction had no effect on the special permit. The running track would have to close at 6 p.m., but had nothing to do with the application for the special permit.

Vice-Chair McLaughlin asked Mr. O'Brien what were his hours of operation. Mr. O'Brien responded that he was open until approximately 8 p.m.

Ms. Turin inquired about the notices for public participation and Mr. O'Brien agreed he would send out new meeting notices for public participation. A discussion ensued in order to research the problems which incurred with dates and address for the notices for public participation.

Mr. Stevens made a motion, seconded by Vice-Chair McLaughlin, to table and ask the applicant to redo the public participation meetings. In a roll call vote, the vote was as follows: Chair Bender – no; Vice-Chair McLaughlin – yes; Mr. Luis – yes; Mr. Stevens – yes; Ms. Turin – yes. **(Motion carried 4-1)**

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A brief discussion ensued to amend the motion to a date certain. Mr. Gratz indicated that the applicant would need time to make arrangements for a public meeting place. Mr. Stevens expressed the Board's concern which was that the applicant comply with the public participation process and reschedule those meetings. Mr. Stevens and Vice-Chair McLaughlin agreed to amend the motion.

Mr. Stevens made a motion, seconded by Vice-Chair McLaughlin, to table this item to October 12, 2005, pending the applicant redoing the public participation meetings. In a roll call vote, the vote was as follows: Chair Bender – no; Vice-Chair McLaughlin – yes; Mr. Luis – yes; Mr. Stevens – yes; Ms. Turin – yes. **(Motion carried 4-1)**

4. OLD BUSINESS

There was no old business discussed.

5. NEW BUSINESS

There was no new business discussed.

6. COMMENTS AND/OR SUGGESTIONS

Vice-Chair McLaughlin reiterated the Board's request that staff try to have more than one item on the agenda for its meetings.

7. ADJOURNMENT

There being no further business and no objections, the meeting was adjourned at 7:25 p.m.

Date Approved: _____

Chair/Board Member